

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0060

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

BARRY K. HOLT,

Defendant and Appellant.

FILED

JUN 28 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANAMOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT

COMES NOW, Eileen A. Larkin, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until August 4, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 28<sup>th</sup> day of June, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
139 N. Last Chance Gulch  
P.O. Box 200145  
Helena, MT 59620-0145

By: *Eileen A. Larkin*  
Eileen A. Larkin  
Assistant Appellate Defender

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Eileen A. Larkin, being first duly sworn upon my oath, depose and state as follows:

1.     I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2.     In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter. The Appellant's two appeals, No. DA-10-0059 and DA-10-0060 were recently consolidated into DA-10-0060.

3.     The Appellant's brief in DA-10-0060 was initially due on June 4, 2010. It is currently due on July 5, 2010. This is the second request for an extension of time.

4.     I have started to read the file and transcripts in this matter. Additional time is needed to perform legal research and write the opening brief.

5.     I have recently participated as co-counsel in filing the reply brief in *State v. Mullarkey*, DA-09-0516. I am currently working on opening briefs in *State v. Savage*, DA-10-0083, and *State v. Bullplume*, DA-10-0028 as well as reply briefs in *State v. Larson*, DA- 09-0441 and *State v. Tirey*, DA-09-0522.

6. I have assisted the Chief Appellate Defender, Ms. Joslyn Hunt, with the filing of writs and with other administrative duties.

7. I will be out of the office from July 6 through July 8, 2010 to attend appellate training with the entire OAD staff.

8. I have a pre-planned trip out of state from July 9 through July 14, 2010.

9. I will work diligently to complete the matter in the time requested.

10. Opposing counsel has been contacted concerning this motion and does not object.

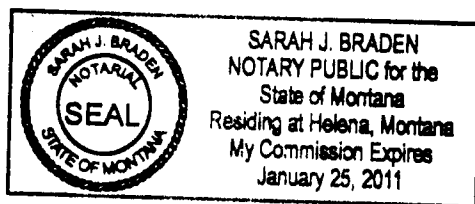
11. Further your affiant sayeth naught.

*Eileen A Larkin*

Eileen A. Larkin

SUBSCRIBED AND SWORN to before me this 20<sup>th</sup> day of

June, 2010.



*Sarah J Braden*

Sarah J. Braden

**CERTIFICATE OF SERVICE**

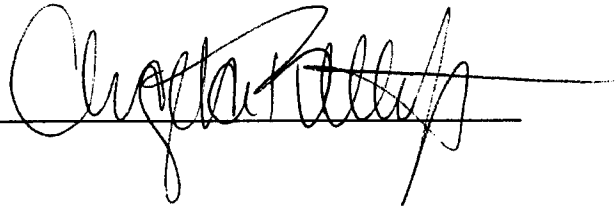
I hereby certify that I caused a true and accurate copy of the foregoing  
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

ALEX NIXON  
Carbon County Attorney  
102 North Broadway  
P.O. Box 810  
Red Lodge, MT 59068

BARRY K. HOLT 3002834  
Broadwater County Jail  
515 Broadway Street  
Townsend, MT 59644

DATED: 6-28-2010

A handwritten signature in black ink, appearing to read "Christopher Bullock", is written over a horizontal line.